

AMENDED IN SENATE MARCH 24, 2010

SENATE BILL

No. 1401

Introduced by Senator Simitian

February 19, 2010

An act to amend ~~Section 14574~~ *Sections 14560, 14574, and 14581* of the Public Resources Code, relating to beverage containers.

LEGISLATIVE COUNSEL'S DIGEST

SB 1401, as amended, Simitian. Beverage containers: redemption payments.

Existing law, the California Beverage Container Recycling and Litter Reduction Act (act), requires a distributor to pay a redemption payment *of \$0.04* for every beverage container sold or offered for sale in the state to the Division of Recycling in the Department of Resources Recycling and Recovery. ~~The distributor is required to make these payments not later than the last day of the 3rd month following a sale, except for those distributors that display a pattern of compliance who may make a single annual payment, under specified circumstances with regard to the amount of the distributor's projected redemption payment.~~

~~This bill would revise the amount of the projected redemption payment with regard to which a distributor is eligible to make an annual payment of redemption payments.~~

Existing law prohibits the department from expending, for the 2010 and 2011 calendar years, funds in the California Beverage Container Recycling Fund that are annually authorized for grants for beverage container recycling and litter reduction programs, the statewide public education and information campaign, grants for recycling market development, and grants for certain programs. Existing law requires

the department to review the fund and eliminate expenditures, upon making a certain determination.

This bill would exclude from those prohibitions encumbrances made on or before March 8, 2010. This bill would also make technical changes regarding the review of the fund and elimination of expenditures.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 14560 of the Public Resources Code, as*
2 *amended by Section 1 of Chapter 5 of the Eighth Extraordinary*
3 *Session of the Statutes of 2010, is amended to read:*

4 14560. (a) (1) Except as provided in paragraph (3), a beverage
5 distributor shall pay the department, for deposit into the fund, a
6 redemption payment of four cents (\$0.04) for a beverage container
7 sold or offered for sale in this state by the distributor.

8 (2) A beverage container with a capacity of 24 fluid ounces or
9 more shall be considered as two beverage containers for purposes
10 of redemption payments paid pursuant to paragraph (1).

11 (3) On and after July 1, 2007, the amount of the redemption
12 payment and refund value for a beverage container with a capacity
13 of less than 24 fluid ounces sold or offered for sale in this state by
14 a dealer shall equal five cents (\$0.05) and the amount of redemption
15 payment and refund value for a beverage container with a capacity
16 of 24 fluid ounces or more shall be ten cents (\$0.10), if the
17 aggregate recycling rate reported pursuant to Section 14551 for
18 all beverage containers subject to this division is less than 75
19 percent for the 12-month reporting period from January 1, 2006,
20 to December 31, 2006, or for any calendar year thereafter.

21 (b) ~~Except as provided in subdivision (c), a~~ A beverage container
22 sold or offered for sale in this state has a refund value of four cents
23 (\$0.04) if the beverage container has a capacity of less than 24
24 fluid ounces and eight cents (\$0.08) if the beverage container has
25 a capacity of 24 fluid ounces or more.

26 (c) ~~Notwithstanding subdivision (b), the department may, on~~
27 ~~and after January 1, 2007, but not after July 1, 2007, increase the~~
28 ~~amount of the refund value specified in subdivision (b), by no~~
29 ~~more than one cent (\$0.01), if the container has a capacity of less~~
30 ~~than 24 fluid ounces, and by two cents (\$0.02) if the container has~~

1 a capacity of 24 fluid ounces or more, if the department determines,
2 as specified in subdivision (f) of Section 14581, there are sufficient
3 moneys remaining in the fund to make these increased payments.

4 (d)

5 (c) (1) The department shall review the fund at least once every
6 three months *and provide a status report on its Internet Web site*
7 to ensure that there are adequate funds in the fund to pay refund
8 values and other disbursements required by this division.

9 (2) If the department determines, pursuant to a review made
10 pursuant to paragraph (1), that there may be inadequate funds to
11 pay the refund values and necessary disbursements required by
12 this division, the department shall immediately notify the
13 Legislature of the need for urgent legislative action.

14 (3) On or before 180 days, but not less than ~~90~~ 80 days, after
15 the notice is sent pursuant to paragraph (2), the department may
16 reduce or eliminate expenditures, or both, from the fund as
17 necessary, according to the procedure set forth in Section 14581,
18 to ensure that there are adequate funds in the fund to pay the refund
19 values and other disbursements required by this division.

20 (e)

21 (d) This section does not apply to a refillable beverage container.

22 SEC. 2. *Section 14574 of the Public Resources Code, as added*
23 *by Section 3 of Chapter 5 of the Eighth Extraordinary Session of*
24 *the Statutes of 2010, is amended to read:*

25 14574. (a) (1) A distributor of beverage containers shall pay
26 to the department the redemption payment for every beverage
27 container, other than a refillable beverage container, sold or
28 transferred to a dealer, less 1.5 percent for the distributor's
29 administrative costs.

30 (2) The payment made by a distributor shall be made not later
31 than the last day of the third month following the sale. The
32 distributor shall make the payment in the form and manner that
33 the department prescribes.

34 (b) (1) Notwithstanding subdivision (a), if a distributor displays
35 a pattern of operation in compliance with this division and the
36 regulations adopted pursuant to this division, to the satisfaction of
37 the department, the distributor may make a single annual payment
38 of redemption payments, if the distributor's projected redemption
39 payment for a calendar year totals less than seventy-five thousand
40 dollars (\$75,000).

(2) An annual redemption payment made pursuant to this subdivision is due and payable on or before February 1 for every beverage container sold or transferred by the distributor to a dealer in the previous calendar year.

(3) A distributor shall notify the department of its intent to make an annual redemption payment pursuant to this subdivision on or before January 31 of the calendar year for which the payment will be due.

~~(b)~~

(c) This section shall become ~~effective~~ operative on July 1, 2012.

SEC. 3. Section 14581 of the Public Resources Code, as amended by Section 5 of Chapter 5 of the Eighth Extraordinary Session of the Statutes of 2010, is amended to read:

14581. (a) Subject to the availability of funds; and pursuant to subdivision (c), the department shall expend the moneys set aside in the fund, pursuant to subdivision (c) of Section 14580, for the purposes of this section:

(1) For each fiscal year commencing July 1, 2008, the department may expend the amount necessary to make the required handling fee payment pursuant to Section 14585.

(2) Fifteen million dollars (\$15,000,000) shall be expended annually for payments for curbside programs and neighborhood dropoff programs pursuant to Section 14549.6.

(3) (A) Fifteen million dollars (\$15,000,000), plus the proportional share of the cost-of-living adjustment, as provided in subdivision (b), shall be expended annually in the form of grants for beverage container litter reduction programs and recycling programs issued to either of the following:

(i) Certified community conservation corps that were in existence on September 30, 1999, or that are formed subsequent to that date, that are designated by a city or a city and county to perform litter abatement, recycling, and related activities, if the city or the city and county has a population, as determined by the most recent census, of more than 250,000 persons.

(ii) Community conservation corps that are designated by a county to perform litter abatement, recycling, and related activities, and are certified by the California Conservation Corps as having operated for a minimum of two years and as meeting all other criteria of Section 14507.5.

1 (B) Any grants provided pursuant to this paragraph shall not
2 comprise more than 75 percent of the annual budget of a
3 community conservation corps.

4 (C) For the 2009–10 fiscal year only, the eight million two
5 hundred fifty thousand dollars (\$8,250,000) appropriated to the
6 California Conservation Corps for certified local conservation
7 corps by Item 3340-101-0133 of *Section 2.00* of the 2009–10
8 Budget Act, as added by Section 166 of Chapter 1 of the Fourth
9 Extraordinary Session of the Statutes of 2009, shall be in addition
10 to the amounts expended pursuant to paragraph (3).

11 (4) (A) Ten million five hundred thousand dollars (\$10,500,000)
12 may be expended annually for payments of five thousand dollars
13 (\$5,000) to cities and ten thousand dollars (\$10,000) for payments
14 to counties for beverage container recycling and litter cleanup
15 activities, or the department may calculate the payments to counties
16 and cities on a per capita basis, and may pay whichever amount
17 is greater, for those activities.

18 (B) Eligible activities for the use of these funds may include,
19 but are not necessarily limited to, support for new or existing
20 curbside recycling programs, neighborhood dropoff recycling
21 programs, public education-promoting beverage container
22 recycling, litter prevention, and cleanup, cooperative regional
23 efforts among two or more cities or counties, or both, or other
24 beverage container recycling programs.

25 (C) These funds ~~may~~ *shall* not be used for activities unrelated
26 to beverage container recycling or litter reduction.

27 (D) To receive these funds, a city, county, or city and county
28 shall fill out and return a funding request form to the department.
29 The form shall specify the beverage container recycling or litter
30 reduction activities for which the funds will be used.

31 (E) The department shall annually prepare and distribute a
32 funding request form to each city, county, or city and county. The
33 form shall specify the amount of beverage container recycling and
34 litter cleanup funds for which the jurisdiction is eligible. The form
35 shall not exceed one double-sided page in length, and may be
36 submitted electronically. If a city, county, or city and county does
37 not return the funding request form within 90 days of receipt of
38 the form from the department, the city, county, or city and county
39 is not eligible to receive the funds for that funding cycle.

(F) For the purposes of this paragraph, per capita population shall be based on the population of the incorporated area of a city or city and county and the unincorporated area of a county. The department may withhold payment to any city, county, or city and county that has prohibited the siting of a supermarket site, caused a supermarket site to close its business, or adopted a land use policy that restricts or prohibits the siting of a supermarket site within its jurisdiction.

(5) (A) One million five hundred thousand dollars (\$1,500,000) may be expended annually in the form of grants for beverage container recycling and litter reduction programs.

(B) Notwithstanding subdivision (f), the department shall not expend funds pursuant to this paragraph for the 2010 and 2011 calendar years, *except for encumbrances made on or before March 8, 2010*.

(6) (A) The department shall expend the amount necessary to pay the processing payment established pursuant to Section 14575. The department shall establish separate processing fee accounts in the fund for each beverage container material type for which a processing payment and processing fee are calculated pursuant to Section 14575, or for which a processing payment is calculated pursuant to Section 14575 and a voluntary artificial scrap value is calculated pursuant to Section 14575.1, into which account shall be deposited both of the following:

(i) All amounts paid as processing fees for each beverage container material type pursuant to Section 14575.

(ii) Funds equal to the difference between the amount in clause (i) and the amount of the processing payments established in subdivision (b) of Section 14575, and adjusted pursuant to paragraph (2) of subdivision (c) of, and subdivision (f) of, Section 14575, to reduce the processing fee to the level provided in subdivision (e) of Section 14575, or to reflect the agreement by a willing purchaser to pay a voluntary artificial scrap value pursuant to Section 14575.1.

(B) Notwithstanding Section 13340 of the Government Code, the moneys in each processing fee account are hereby continuously appropriated to the department for expenditure without regard to fiscal years, for purposes of making processing payments pursuant to Section 14575.

(C) Notwithstanding the other provisions of this section and Section 14575, for the 2010 and 2011 calendar years, the total amount that the department may expend to reduce the amount of processing fees for each container type shall not exceed the total amount expended to reduce processing fees in the 2008 calendar year.

(7) (A) Up to five million dollars (\$5,000,000) may be annually expended by the department for the purposes of undertaking a statewide public education and information campaign aimed at promoting increased recycling of beverage containers.

(B) Notwithstanding subdivision (f), the department shall not expend funds pursuant to this paragraph for the 2010 and 2011 calendar years, *except for encumbrances made on or before March 8, 2010*.

(8) Up to ten million dollars (\$10,000,000) may be expended annually by the department for quality incentive payments for empty glass beverage containers pursuant to Section 14549.1.

(9) Up to twenty million dollars (\$20,000,000) may be expended annually by the department, until January 1, 2012, to issue grants for recycling market development and expansion-related activities aimed at increasing the recycling of beverage containers. Notwithstanding subdivision (f), the department shall not expend any funds pursuant to this paragraph for the 2010 and 2011 calendar years, *except for encumbrances made on or before March 8, 2010*. The activities that may be funded include, but are not limited to, the following:

(A) Research and development of collecting, sorting, processing, cleaning, or otherwise upgrading the market value of recycled beverage containers.

(B) Identification, development, and expansion of markets for recycled beverage containers.

(C) Research and development for products manufactured using recycled beverage containers.

(D) Research and development to provide high-quality materials that are substantially free of contamination.

(E) Payments to California manufacturers who recycle beverage containers that are marked by resin type identification code “3,” “4,” “5,” “6,” or “7,” pursuant to Section 18015.

(10) Up to ten million dollars (\$10,000,000) may be expended annually by the department for market development payments for

1 empty plastic beverage containers pursuant to Section 14549.2,
2 until January 1, 2012.

3 (11) (A) Up to twenty million dollars (\$20,000,000) may be
4 expended from July 1, 2009, to January 1, 2012, inclusive, for
5 either of the following:

6 (i) Grants for beverage container recycling and litter reduction
7 programs that emphasize the greatest and most effective collection
8 of beverage containers per dollar spent to ensure the program's
9 performance and accountability.

10 (ii) Focused, regional community beverage container recycling
11 and litter reduction programs that enable the department to more
12 effectively organize the amount and type of resources needed for
13 regional and statewide efforts to increase recycling.

14 (B) The department shall require, as a condition of receiving
15 grant funds pursuant to subparagraph (A), each grant recipient to
16 submit a final report including, but not limited to, the grant
17 recipient's reported volumes of beverage containers recycled,
18 where applicable.

19 (C) On or before July 1, 2014, the department shall publish an
20 evaluation of all grants made pursuant to subparagraph (A). At a
21 minimum, the evaluation shall summarize each final report
22 submitted by each grantee pursuant to subparagraph (B) and assess
23 whether the grantee adequately met the scope and objectives
24 outlined in the grant agreement.

25 (D) Notwithstanding subdivision (f), the department shall not
26 expend funds pursuant to this paragraph for the 2010 and 2011
27 calendar years, *except for encumbrances made on or before March*
28 *8, 2010.*

29 (b) The fifteen million dollars (\$15,000,000) that is set aside
30 pursuant to paragraph (3) of subdivision (a) is a base amount that
31 the department shall adjust annually to reflect any increases or
32 decreases in the cost of living, as measured by the Department of
33 Labor, or a successor agency, of the federal government.

34 (c) (1) The department shall review all funds on a quarterly
35 basis and provide a status report on its Internet Web site to ensure
36 that there are adequate funds to make the payments specified in
37 this section and the processing fee reductions required pursuant
38 to Section 14575.

39 (2) If the department determines, pursuant to a review made
40 pursuant to paragraph (1), that there may be inadequate funds to

1 pay the payments required by this section and the processing fee
2 reductions required pursuant to Section 14575, the department
3 shall immediately notify the appropriate policy and fiscal
4 committees of the Legislature regarding the inadequacy.

5 (3) On or before 180 days, but not less than ~~90~~ 80 days, after
6 the notice is sent pursuant to paragraph (2), the department may
7 reduce or eliminate expenditures, or both, from the funds as
8 necessary, according to the procedure set forth in subdivision (d).

9 (d) If the department determines that there are insufficient funds
10 to make the payments specified pursuant to this section and Section
11 14575, the department shall reduce all payments proportionally.

12 (e) Prior to making an expenditure pursuant to paragraph (7) of
13 subdivision (a), the department shall convene an advisory
14 committee consisting of representatives of the beverage industry,
15 beverage container manufacturers, environmental organizations,
16 the recycling industry, nonprofit organizations, and retailers to
17 advise the department on the most cost-effective and efficient
18 method of the expenditure of the funds for that education and
19 information campaign.

20 (f) Subject to the availability of funds, the department shall
21 retroactively pay in full any payments provided in this section that
22 have been proportionally reduced during the period of January 1,
23 2010, through June 30, 2010.

24 ~~SECTION 1. Section 14574 of the Public Resources Code is~~
25 ~~amended to read:~~

26 ~~14574. (a) (1) A distributor of beverage containers shall pay~~
27 ~~to the department the redemption payment for every beverage~~
28 ~~container, other than a refillable beverage container, sold or~~
29 ~~transferred to a dealer, less 1.5 percent for the distributor's~~
30 ~~administrative costs.~~

31 ~~(2) The payment made by a distributor shall be made not later~~
32 ~~than the last day of the third month following the sale. The~~
33 ~~distributor shall make the payment in the form and manner that~~
34 ~~the department prescribes.~~

35 ~~(b) (1) Notwithstanding subdivision (a), if a distributor displays~~
36 ~~a pattern of operation in compliance with this division and the~~
37 ~~regulations adopted pursuant to this division, to the satisfaction of~~
38 ~~the department, the distributor may make a single annual payment~~
39 ~~of redemption payments, if the distributor's projected redemption~~

1 payment for a calendar year totals less than seventy-five thousand
2 dollars (\$75,000):
3 ~~(2) An annual redemption payment made pursuant to this~~
4 ~~subdivision is due and payable on or before February 1 for every~~
5 ~~beverage container sold or transferred by the distributor to a dealer~~
6 ~~in the previous calendar year.~~
7 ~~(3) A distributor shall notify the department of its intent to make~~
8 ~~an annual redemption payment pursuant to this subdivision on or~~
9 ~~before January 31 of the calendar year for which the payment will~~
10 ~~be due.~~

O